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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/553,398

08/31/2006

Giuseppe Lo Biundo

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER

WEINSTEIN, LEONARD J

ART UNIT

PAPER NUMBER

3746

NOTIFICATION DATE

DELIVERY MODE

03/24/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com
PPROCESSING@SUGHRUE.COM
USPTO@SUGHRUE.COM

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/553,398	Applicant(s) LO BIUNDO ET AL.	
	Examiner LEONARD J. WEINSTEIN	Art Unit 3746	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1,2,4-6 and 8-11.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☒ Other: See Continuation Sheet.

/Devon C Kramer/
 Supervisory Patent Examiner, Art Unit 3746

/Leonard J Weinstein/
 Examiner, Art Unit 3746

Continuation of 3. NOTE: The addition of claim 10 to claim 1, provides a limitation that was not previously disclosed with respect to claims 2, 4-6, and 9 and would require further consideration and/or search.

Continuation of 13. Other: With respect to the rejection of the limitations including claims 8 and 11 as previously presented in the Amendment of October 8, 2010 and now incorporated into claim 8, the applicant argues that the combination including Whitefield US 5,282,446 ("Whitefield") in view of Schneider US 6,345,600 (Schneider) as evidenced by Garza US 5,535,643 ("Garza"), further in view of Sato US 5,941,203, still further in view of Hayman et al. US 6,602,557 does not render the instant invention obvious under 35 U.S.C. 103(a). The applicant argues that it is improper to construe the vanes 58 of the secondary pump defined by the vanes 58 and gear 48 of Hayman as being related to the oil and vacuum pump of Scheider. The applicant also argues that if construed as a pump the vanes 58 would be adjacent to an oil pump and not an arrangement where a gear was between an vacuum pump and an oil pump.

The examiner notes several things about Whitefield, Schneider, and Hayman. Whitefield teaches two embodiments, one including a vane pump and one without. To accommodate the vane pump Whitefield moves an input drive member outwards and installs a vacuum pump in an isolated housing in between the input drive member and the oil pump. Thus Whitefield actually provides a teaching of rearranging parts, one of which significantly is a drive input member, to accommodate another pump.

There are both significant similarities and differences with Whitefield, Schneider, and Hayman. In Whitefield there are three pumps including the centrifugal impeller on the left side of the oil pump. The impeller of Whitefield is disposed on the end of the combined shaft and adjacent to an oil pump in a very similar manner to the rotating vane pump constructively formed by the vanes 58, and a first oil pump of Hayman. With the impeller, Whitefield provides three fluid conveying pumps on one combined drive shaft in the order of an impeller, oil pump, vacuum pump, and input drive. Hayman provides four pumps and a rotating input member consisting in order of an impeller, a gear (input), first oil pump, second oil pump, and vacuum pump. By the applicant's own interpretation the vanes and gear are a pump, and not a gear in between two pumps. Under this construction Hayman teaches an impeller, first oil pump, second oil pump, and vacuum pump. The difference than in the arrangements of Whitefield and Hayman, is that there is a shaft and an entirely separate pump between the first oil pump and the vacuum pump in Hayman. Schneider teaches a different arrangement of a drive input, oil pump, and then a vacuum pump. This is similar to Whitefield in that the oil and vacuum pumps are adjacent but also similar to Hayman in that a drive input is adjacent to an oil pump.

It will be noted however that Hayman and Schneider teach an input member that is at the opposite end of a drive shaft from a vacuum pump, whereas Whitefield includes a drive member that is adjacent to a vacuum pump. Together the references teach that the drive input for a shaft, an oil pump, and a vacuum pump can be arranged in different configurations on a drive shaft. Hayman teaches an input next to an oil pump, Whitefield teaches an input that can be moved to accommodate another pump next to a vacuum pump. Both Whitefield and Hayman teach what could be interpreted as an impeller on the same side of an oil pump. The degree of variation and order, specifically with respect to where an input is located, would lead one of ordinary skill in the art to conclude (1) that it was obvious to (2) and the prior art suggested that another iteration of a combination of similar pumps on a single shaft would include a gear or a drive input between two of the pumps. This is especially true and applicable to Whitefield, because the reference actually teaches rearranging where a drive input is located to accommodate a pump. .